

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA)

v.)

RICHARD M. SCRUSHY,)

Defendant.)

Case No. CR-03-BE-0530-S

ENTERED

JAN 22 2004

MOOT

**MOTION OF THE UNITED STATES
TO VACATE ORDER SETTING HEARING**

Kenneth B. ...
U.S. DISTRICT JUDGE 1/22/04

Comes now the United States of America, by and through its counsel, Alice H. Martin, United States Attorney for the Northern District of Alabama, and moves this Court to vacate its order setting a hearing on the defendant's *Motion to Modify the Court's Restraining Order of November 3, 2003*. As grounds therefor, the Government states as follows:

1. That on November 26, 2003, the defendant filed his motion seeking to modify the Court's Restraining Order of November 3, 2003. Following submission of briefs by both parties, this Court held a conference with counsel on December 11, 2003, to discuss the defendant's motion.

2. That during that telephone conference, this Court informed counsel for the defendant that it was clear under Supreme Court and Eleventh Circuit case law that the defendant did not have a *right* to a hearing; rather, it was within the court's discretion as to whether a hearing would be held. This Court further advised defense counsel that it was unclear what relief the defendant was seeking in his motion, and that if the Court did have a hearing, the defendant would first be required to specifically list assets that he claims fall outside the scope of the Indictment. Defense counsel acknowledged that obligation.